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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/659,626	09/10/2003	Jon Opsal	TWI-23010	5574
28584	7590	02/24/2006	EXAMINER	
STALLMAN & POLLOCK LLP 353 SACRAMENTO STREET SUITE 2200 SAN FRANCISCO, CA 94111			LAUCHMAN, LAYLA G	
			ART UNIT	PAPER NUMBER
			2877	

DATE MAILED: 02/24/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/659,626	OPSAL ET AL.	
	Examiner	Art Unit	
	L. G. Lauchman	2877	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-5 and 8-10 is/are allowed.
- 6) ☐ Claim(s) 6 and 7 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/10/2003</u> . | 6) <input type="checkbox"/> Other: ____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 6 and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Nikoonahad et al (US 6,411,390).

The patent teaches a device for evaluating a sample, the device comprising: a first illumination source 12 producing an intensity modulated beam for periodically exciting a region on the sample; a second illumination source 32 producing a probe beam to reflect off the region on the sample surface that has been periodically excited (36a and 36b) where the probe beam has a spectral range selected from a group that includes: 395 to 410 nm and 355 to 365 nm; a detector 50 for monitoring the modulated changes in the reflected probe beam and generating output signals in response thereto; and a processor 60 for evaluating the sample using the detector output signals. As to the probe beam having a spectral range selected from a group that includes: 395 to 410 nm and 355 to 365 nm, and 400 to 405 nm, it would be an inherent feature since the patent '390 discloses that the probe and the pump beams may include ultraviolet and visible wavelengths (see col. 5, lines 57-59).

Allowable Subject Matter

Claims 1-5, 8-10 are allowed.

The following is an examiner's statement of reasons for allowance:

As to Claim 1, the prior art of record taken along or in combination, fails to disclose or render obvious generating an intensity modulated pump beam; generating a probe beam at a wavelength within the UV range that corresponds to a local maxima of the temperature reflectance coefficient of the sample, in combination with the rest of the limitations of the claim.

As to Claim 2, the prior art of record taken along or in combination, fails to disclose or render obvious tuning the wavelength of the probe beam to minimize the thermal wave contribution to the probe beam modulation, in combination with the rest of the limitations of the claim.

As to Claim 4, the prior art of record taken along or in combination, fails to disclose or render obvious tuning the wavelength of the probe beam to vary the thermal and plasma wave contributions to the probe beam modulation, in combination with the rest of the limitations of the claim.

As to Claim 8, the prior art of record taken along or in combination, fails to disclose or render obvious the probe beam having a wavelength within the UV range that corresponds to a local maxima of the temperature reflectance coefficient of the sample, in combination with the rest of the limitations of the claim.

As to Claim 9, the prior art of record taken along or in combination, fails to disclose or render obvious the wavelength of the probe beam is tunable to minimize the thermal wave

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contribution to the probe beam modulation, in combination with the rest of the limitations of the claim.

As to Claim 10, the prior art of record taken along or in combination, fails to disclose or render obvious wavelength of the probe beam is tunable to equalize the thermal and plasma wave contributions to the probe beam modulation, in combination with the rest of the limitations of the claim.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Nelson et al disclose (US 5,633,711) analysis of thin sample by LIPS (laser induced phonons) or ISTS (impulsive stimulated thermal scattering) measurements with a non-absorbing probe laser. Tauc et al (US 4,710,030) discloses a system for measuring physical properties of a system by providing a pump beam and a probe beam having a radiation range within ultraviolet and infrared wavelengths.

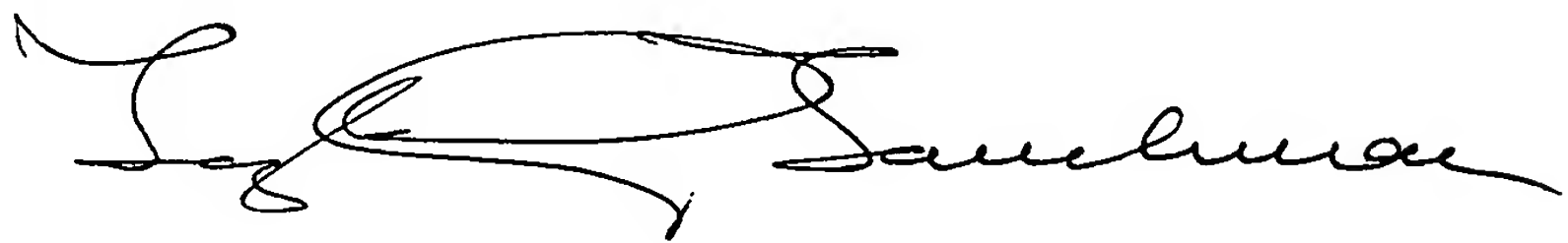
Any inquiry concerning this communication or earlier communications from the examiner should be directed to L. G. Lauchman whose telephone number is (571) 272-2418.

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The examiner's normal work schedule is 8:00am to 4:30pm (EST), Monday through Friday. If attempts to reach examiner by the telephone are unsuccessful, the examiner's supervisor Gregory J. Toatley, Jr. can be reached on (571) 272-2059, ext. 77.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Any inquiry of a general nature or relating to the status of this application should be directed to the TC receptionist whose telephone number is (571) 272-1562.

A handwritten signature in black ink, appearing to read "L. G. Lauchman", with a stylized flourish at the end.

L. G. Lauchman
Primary Examiner
Art Unit 2877

February 17, 2006